

**Introduced by Senator Aanestad**

February 22, 2005

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An act to add Section 1714.4 to the Civil Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

SB 937, as introduced, Aanestad. Liability: obesity.

Existing law provides that a manufacturer or seller is not liable in a product liability action if the product is a common consumer product intended for personal consumption and it is inherently unsafe and is known to be unsafe by the ordinary consumer who consumes the product with the ordinary knowledge common to the community, except as specified.

This bill would provide that a manufacturer, distributor, or seller of food or nonalcoholic beverages intended for human consumption shall not be subject to civil liability for personal injury or wrongful death based on an individual's consumption of that food or nonalcoholic beverages if liability is premised upon the individual's weight gain, obesity, or a health condition related to weight gain or obesity and resulting from his or her long-term consumption of food or nonalcoholic beverage that is in compliance with applicable statutory and regulatory requirements, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1714.4 is added to the Civil Code, to
- 2 read:
- 3 1714.4. (a) No manufacturer, distributor, or seller of food or
- 4 nonalcoholic beverages intended for human consumption shall be

1 subject to civil liability for personal injury or wrongful death  
2 based on an individual's consumption of that food or those  
3 nonalcoholic beverages if liability is premised upon the  
4 individual's weight gain, obesity, or a health condition related to  
5 weight gain or obesity and resulting from his or her long-term  
6 consumption of that food or nonalcoholic beverage if the food or  
7 beverage is in compliance with applicable statutory and  
8 regulatory requirements.

9 (b) For purposes of this section, the term "long-term  
10 consumption" means the cumulative effect of the consumption of  
11 food or nonalcoholic beverages, and not the effect of a single  
12 instance of consumption.

13 (c) This section does not apply to any of the following:

14 (1) An action in which a manufacturer or seller of food or  
15 nonalcoholic beverages violated statutes or regulations regarding  
16 the manufacturing, marketing, distribution, advertisement,  
17 labeling, or sale of the product, and the violation was a proximate  
18 cause of the claim of injury resulting from a person's weight  
19 gain, obesity, or health condition related to weight gain or  
20 obesity.

21 (2) An action for breach of contract or express warranty in  
22 connection with the purchase of food or nonalcoholic beverages.

23 (3) An action regarding the sale of food or nonalcoholic  
24 beverages that are adulterated as described in Section 402 of the  
25 Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 342).